

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Genevieve Lamont	Team: Squad #03	CCRB Case #: 202105928	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 09/26/2021 8:53 PM	Location of Incident: Front of 179-32 Hillside Avenue	18 Mo. SOL 3/26/2023	Precinct: 103		
Date/Time CV Reported Sun, 09/26/2021 10:24 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 10/04/2021 11:08 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Edward Wetherell	01028	951430	103 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Christopher Neun	16699	968667	103 PCT
2. PO Melissa Gillott	26391	967085	103 PCT
3. PO Jill Ragonesi	02957	955963	103 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Edward Wetherell	Discourtesy: Police Officer Edward Wetherell spoke discourteously to § 87(2)(b)	
B . PO Edward Wetherell	Discourtesy: Police Officer Edward Wetherell acted discourteously toward § 87(2)(b)	
C . PO Edward Wetherell	Abuse: Police Officer Edward Wetherell interfered with § 87(2)(b) use of a recording device.	
D . PO Edward Wetherell	Abuse: Police Officer Edward Wetherell damaged § 87(2)(b) property.	
E . PO Edward Wetherell	Discourtesy: Police Officer Edward Wetherell spoke discourteously to § 87(2)(b)	
F . PO Edward Wetherell	Abuse: Police Officer Edward Wetherell refused to provide his name to § 87(2)(b)	

Case Summary

On September 26, 2021, § 87(2)(b) filed the following complaint with the Internal Affairs Bureau (IAB), generating original IAB log #§ 87(2)(b). The CCRB received the complaint on October 4, 2021.

On September 26, 2021, at approximately 8:53 p.m., § 87(2)(b) called 911 regarding an altercation he was involved in at a liquor store located at 179-32 Hillside Avenue in Queens. Officers from the 103rd Precinct, including PO Edward Wetherell, responded to the location. During the incident, § 87(2)(b) began to record the officers, during which PO Wetherell told § 87(2)(b) “Get that fucking phone out of my face,” (Allegation A: Discourtesy; § 87(2)(g) (b)). He simultaneously hit the phone out of his hand, knocking it to the ground (Allegation B and C: Discourtesy and Abuse of Authority; § 87(2)(g) § 87(2)(b)). § 87(2)(b) stated that his phone screen was cracked because of this (Allegation D: Abuse of Authority; § 87(2)(g)). While § 87(2)(b) retrieved his phone, PO Wetherell told him, “I told you to stay the fuck away from me,” (Allegation E: Discourtesy; § 87(2)(g) § 87(2)(b)). § 87(2)(b) also asked PO Wetherell for his name, which he did not verbally provide (Allegation F: Abuse of Authority; § 87(2)(g)). No arrest was made, and no summons was issued as a result of this incident.

Body-worn camera (BWC) footage was received for PO Wetherell, PO Christopher Neun, PO Melissa Gillott, PO Jill Ragonesi, Sgt. Damon Delgado, and PO Nicholas Srour, all from the 103rd Precinct [BR01]. § 87(2)(b) did not provide his cellphone footage to the investigation.

Findings and Recommendations

Allegation (A) Discourtesy: Police Officer EDWARD WETHERELL spoke discourteously to § 87(2)(b).

Allegation (B) Discourtesy: Police Officer EDWARD WETHERELL acted discourteously toward § 87(2)(b).

Allegation (C) Abuse of Authority: Police Officer EDWARD WETHERELL interfered with § 87(2)(b) use of a recording device.

Allegation (D) Abuse of Authority: Police Officer EDWARD WETHERELL damaged § 87(2)(b) property.

Allegation (E) Discourtesy: Police Officer EDWARD WETHERELL spoke discourteously to § 87(2)(b).

Allegation (F) Abuse of Authority: Police Officer EDWARD WETHERELL refused to provide his name to § 87(2)(b).

§ 87(2)(b) testified that he went to a liquor store at 179-32 Hillside Avenue in Queens, where he got into a verbal dispute with the cashier, which ultimately ended with the cashier pushing him out of the store. Once outside the store, § 87(2)(b) called 911 and told the operator he had been assaulted. Approximately 20 to 25 minutes later, three officers responded, including PO Wetherell. § 87(2)(b) told the officers what happened; none of the officers responded to this and entered the liquor store. After ten minutes, the officers exited. PO Wetherell told § 87(2)(b) to go home, asserting that he was intoxicated and could smell alcohol on his breath. None of the other officers said anything to § 87(2)(b). He began recording the officers on his cellphone, attempting to record their names and shield numbers. Upon turning his camera to PO Wetherell, who was about three to four feet away, the officer asked why he was recording, reached forward, and knocked his cellphone out of his hand. The cellphone hit the ground and the glass screen cracked. None of the officers said anything in response to this. § 87(2)(b) became fearful of PO Wetherell after this and left the scene [BR02].

While not alleged in § 87(2)(b) testimony, BWC footage captured PO Wetherell directing profanity towards § 87(2)(b) as well as refusing to provide his name. The investigation pled these as allegations. PO Wetherell's BWC shows that § 87(2)(b) begins to record the officers at 00:55 minutes, moving towards each officer. At 1:38 minutes, PO Wetherell holds out his hand while § 87(2)(b) turns to him, more than an arms distance away. § 87(2)(b) then extends his arm slightly at 1:40 minutes and PO Wetherell hits the phone out of § 87(2)(b) hand, saying, "Get that fucking phone out of my face." § 87(2)(b) goes to retrieve his phone, which landed on the edge of the sidewalk. At 1:56 minutes, PO Wetherell tells § 87(2)(b) "I told you to stay the fuck away from me." § 87(2)(b) then walks away to call IAB. At 6:42 minutes, § 87(2)(b) asks PO Wetherell what his name is, to which he responds that it is on his name tag. § 87(2)(b) repeats his request, holds out his phone, and asks him to tell "us" (presumably him and the IAB operator) his name, to which PO Wetherell responds that he is not talking to anyone on his phone [BR04].

PO Srour's BWC, which is taken when he and Sgt. Delgado respond to § 87(2)(b) home, shows § 87(2)(b) telling the officers about what occurred at the incident location. The video is taken approximately an hour later, when the officers went to § 87(2)(b) home to interview him about the incident. At 13:30 minutes, he tells the officers that his phone was damaged from PO Wetherell's actions. He shows his phone to them and it appears that the screen is cracked along the edge. PO Srour and Sgt. Delgado disagree with § 87(2)(b) and affirm that his phone "looks fine" [BR05].

PO Wetherell testified that he responded to a 911 call at 179-32 Hillside Avenue in Queens. The 911 call initially came over as an assault but did not mention weapons or injuries. Upon arriving at the location, the liquor store employees informed him that § 87(2)(b) was inside the store for approximately 45 minutes, arguing and screaming about the size of the bag he was given. PO Wetherell and the other officers informed all individuals on scene to go home, although § 87(2)(b) remained on scene. § 87(2)(b) told the officers that he was going to call IAB on them and that they "did not know who they were messing with." At that point, PO Wetherell activated his BWC, and § 87(2)(b) began recording the officers on his cellphone. He informed § 87(2)(b) that he could record, but to keep his distance. After approximately a minute, § 87(2)(b) approached PO Wetherell with his arm outstretched holding the phone. As § 87(2)(b) approached him, PO Wetherell held out his hand and informed him to keep back. § 87(2)(b) then took another step forward. PO Wetherell stuck out his hand to push § 87(2)(b) back, attempting to push him back by the chest. His hand hit § 87(2)(b) arm, and his phone fell to the ground. PO Wetherell stated that he accidentally hit § 87(2)(b) phone while attempting to create space between them. § 87(2)(b) picked up his phone and continued to yell at the officers, telling them that he was "going to get them." He then placed a call to IAB. At one point, § 87(2)(b) asked PO Wetherell for his name and shield number, which he told § 87(2)(b) were on his chest. He acknowledged that he did not verbally provide this information as he believed visible shield was sufficient. § 87(2)(b) remained on scene for several minutes before leaving. PO Wetherell did not have any further interaction with § 87(2)(b). When asked if he used any discourteous language during the incident, PO Wetherell stated that he may have, but did not recall [BR03]. PO Wetherell was shown his BWC footage from the incident. He testified that he did not want to add anything to the record regarding hitting § 87(2)(b) phone. He stated that he said, "Get that fucking phone out of my face," because § 87(2)(b) was too close to him. He also acknowledged telling § 87(2)(b) "I told you to get the fuck away from me," and explained that he did so to "get his point across." He stated there was no other reason for using profanity during the incident [BR03].

As per Administrative Guide 304-11, members of services must interact with members of the public in a professional manner. Members of service must also courteously and clearly state their rank, name, shield number, and command, or otherwise provide them, to anyone who requests they do so [BR06].

In DAO-DCT Case #2017-17276, it was ruled that language which would ordinarily be inappropriate in dealing with civilians may be excused in the course of a violent confrontation [BR07].

According to Administrative Guide 304-21, individuals have a right to lawfully observe and/or record police activity, a right which extends to individuals in public places such as streets, sidewalks, and parks. Members of service must not intentionally prevent, or attempt to prevent, an individual from recording police activities or threaten, intimidate, or otherwise discourage an observer from recording police activities. This right to observe and/or record police action can be limited for reason such as the safety of officers or other members of the public, or when a violation of law is committed by the individual(s) who are observing/recording [BR08].

§ 87(2)(g) [REDACTED] While PO Wetherell stated that he attempted to move § 87(2)(b) by pushing his chest, it is apparent from the BWC footage that he aimed for § 87(2)(b) hand that was holding the phone. He also did so a few seconds after § 87(2)(b) moved his phone towards PO Wetherell, indicating that he hit his phone as a response to § 87(2)(b) recording him rather than by accident. PO Wetherell's use of profanity, telling § 87(2)(b) to "get that fucking phone out of [his] face," also indicates that PO Wetherell intentionally struck § 87(2)(b) phone or at least reached for § 87(2)(b) to prevent him from recording. § 87(2)(g) [REDACTED]

PO Wetherell, by hitting § 87(2)(b) phone out of his hand, also prevented § 87(2)(b) from fully recording his interaction with the officer. As per the above cited procedure, § 87(2)(b) did not engage in any actions that would have given PO Wetherell grounds to interfere in his recording. BWC footage showed that he did not take any actions, either physical or verbal, that would have placed PO Wetherell or any other individual on scene in danger. Additionally, § 87(2)(b) was not in violation of any law which would have limited his right to record PO Wetherell. § 87(2)(g) [REDACTED]

§ 87(2)(b) testified that his phone screen sustained damage as a result of PO Wetherell hitting it out of his hand. This is confirmed by PO Srour's BWC, in which the phone screen is shown to be cracked along the edge. § 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED] PO Wetherell's reasoning, that he just wanted

to get his point across, did not attest to any stressful or confrontational situation. When PO Wetherell made that statement, § 87(2)(b) already distanced from him. Additionally, the scene was not violent and would not have provided grounds for PO Wetherell to use profanity. § 87(2)(g)

As per Administrative Guide 304-11, PO Wetherell was required to verbally communicate his name to § 87(2)(b) or otherwise provide it. It is clear from his BWC that PO Wetherell did not provide his name, instead telling § 87(2)(b) his name was on his badge. When § 87(2)(b) repeated his request, PO Wetherell again verbally refused to provide his name. PO Wetherell did not attempt to provide his name in any other way, such as giving § 87(2)(b) his business card.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Wetherell has been a member of service for ten years and has been a subject in six CCRB complaints and nine allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- Mediation was not accepting cases at the time this complaint was received.
- As of December 16, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint [BR10].
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 3

Investigator:	<u>Genevieve Lamont</u>	<u>SI Genevieve Lamont</u>	<u>01/19/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Olga Golub</u>	<u>IM Olga Golub</u>	<u>01/19/2022</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date

